

House Bill 5

By: Representatives Oliver of the 83<sup>rd</sup>, Watson of the 91<sup>st</sup>, Mitchell of the 88<sup>th</sup>, Drenner of the 86<sup>th</sup>, and Benfield of the 85<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, so as to add a points penalty for the use of cellular, hands-free, or mobile telephones or other wireless communication devices under certain circumstances; to change certain provisions related to exercising due care in operating a motor vehicle and the proper use of radios and mobile telephones; to provide for definitions; to provide for a penalty; to provide for exceptions; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended by striking subparagraph (c)(1)(A) of Code Section 40-5-57, relating to the assessment of points in the suspension or revocation of the license of a habitually negligent or dangerous driver, and inserting in lieu thereof the following:

"(c)(1)(A) Except as provided in subparagraph (C) of this paragraph, the points to be assessed for each offense shall be as provided in the following schedule:

Aggressive driving. . . . .	6 points
Reckless driving. . . . .	4 points
Unlawful passing of a school bus. . . . .	6 points
Improper passing on a hill or a curve. . . . .	4 points
Exceeding the speed limit by more than 14 miles per hour but less than 19 miles per hour. . . . .	2 points
Exceeding the speed limit by 19 miles per hour or more but less than 24 miles per hour. . . . .	3 points
Exceeding the speed limit by 24 miles per hour or more but less than 34 miles per hour. . . . .	4 points

1	Exceeding the speed limit by 34 miles per hour or more. ....	6 points
2	Disobedience of any traffic-control device or traffic officer. ....	3 points
3	Too fast for conditions.....	0 points
4	Possessing an open container of an alcoholic beverage while driving. ....	2 points
5	Failure to adequately secure a load, except fresh farm produce, resulting in	
6	loss of such load onto the roadway which results in an accident. ....	2 points
7	<u>Driving while distracted - use of wireless communication device. ....</u>	<u>1 point</u>
8	Violation of child safety restraint requirements, first offense.....	1 point
9	Violation of child safety restraint requirements, second or	
10	subsequent offense.....	2 points
11	All other moving traffic violations which are not speed limit violations. ....	3 points"

12 **SECTION 2.**

13 Said title is further amended by striking Code Section 40-6-241, relating to exercising due  
 14 care in operating a motor vehicle and the proper use of radios and mobile telephones, and  
 15 inserting in lieu thereof the following:

16 "40-6-241.

17 (a) For purposes of this Code section, the term:

18 (1) 'Device' means a cellular, hands-free, or mobile telephone, wireless communication  
 19 device, personal digital assistant, radio, or citizens band radio; and

20 (2) 'Engaged in a call' means talking or listening via a device and shall include holding such  
 21 device to activate, deactivate, or initiate a function of such device.

22 (b) A driver shall exercise due care in operating a motor vehicle on the highways, roadways,  
 23 and streets of this state and shall not engage in any actions which shall distract such driver  
 24 from the safe operation of such vehicle, ~~provided that the proper use of a radio, citizens band~~  
 25 ~~radio, or mobile telephone shall not be a violation of this Code section.~~

26 (c)(1) Except as provided in subsection (d) of this Code section, any driver who shall  
 27 knowingly:

28 (A) Operate a motor vehicle which is involved in an accident resulting in death or bodily  
 29 injury of any person or in property damage; and

30 (B) Be engaged in a call at the time of the accident

31 shall be guilty of driving while distracted.

32 (2) The inference that the driver of such motor vehicle was driving while distracted may  
 33 be rebutted by evidence tending to show that engaging in a call at the time of the accident  
 34 did not contribute to the accident.

35 (d) Subsection (c) of this Code section shall not apply to:

1 (1) Engaging in a call for the sole purpose of communicating with any of the following  
2 regarding an emergency situation: an emergency response operator; a hospital, physician's  
3 office, or health clinic; an ambulance company or corps; a fire department; or a police  
4 department; and

5 (2) Any of the following persons while in the performance of their official duties: a law  
6 enforcement officer; a member of a fire department; or the operator of an emergency  
7 vehicle designated as such under Code Section 40-8-92.

8 (e)(1) Any person convicted of a violation of subsection (b) of this Code section shall be  
9 guilty of a misdemeanor punishable as provided in Code Section 40-6-1.

10 (2) Any person convicted of a violation of subsection (c) of this Code section shall be  
11 guilty of a misdemeanor punishable by a fine not to exceed \$500.00 and assessment of  
12 points pursuant to Code Section 40-5-57."

13  
14 **SECTION 3.**

15 All laws and parts of laws in conflict with this Act are repealed.